

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONNIE E. CARTER,

Plaintiff,

Case No. 1:21-cv-562

v.

Hon. Hala Y. Jarbou

WESTSHORE ENGINEERING AND
SURVEYING, et al.,

Defendants.

ORDER

This matter is before the court on the magistrate judge's Report and Recommendation (R&R), which recommends dismissing this action without prejudice for lack of subject matter jurisdiction. (R&R, ECF No. 26.) Plaintiff filed a "Report and Recommendation Response" (ECF No. 28), which the Court will construe as an objection to the magistrate judge's R&R.

Under 28 U.S.C. § 636(b)(1) and Rule 72 of the Federal Rules of Civil Procedure, the Court must conduct de novo review of those portions of the R&R to which objections have been made. Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

Fed. R. Civ. P. 72(b)(3).

Plaintiff's response contains no real objections. Plaintiff concedes, again, that the Court lacks diversity jurisdiction. Plaintiff asks this Court to "let this action proceed due to the Federal violations of Law and Constitutional Violations." (ECF No. 28, PageID.129.) But the only federal violation referenced in Plaintiff's objections is a violation of the Occupational Safety and Health

Act (OSHA). However, that Act does not give the Court jurisdiction because it cannot serve as the basis for a claim. *See Russell v. Bartley*, 494 F.2d 334, 335 (6th Cir. 1974) (OSHA does not create a private civil remedy); *Minichello v. U.S. Indus., Inc.*, 756 F.2d 26 (6th Cir. 1985) (OSHA can never provide a basis for liability); *Ellis v. Chase Commc'ns, Inc.*, 63 F.3d 473, 477 (6th Cir. 1995) (OSHA does not support an independent, private cause of action). And the R&R explains why Plaintiff's vague assertion of constitutional violations does not suffice. Thus, Plaintiff fails to demonstrate any factual or legal error in the magistrate judge's analysis or conclusion. On review, the Court concludes that the R&R correctly analyzes the issues and makes a sound recommendation. Accordingly:

IT IS ORDERED that Plaintiff's objections (ECF No. 28) are **DENIED**.

IT IS FURTHER ORDERED that the R&R (ECF No. 26) is **APPROVED** and **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that, because the Court lacks jurisdiction, Plaintiff's motions to serve the complaint (ECF Nos. 5 and 10) and Defendant's motions to dismiss (ECF Nos. 14 and 22) are **DENIED AS MOOT**.

A judgment will enter consistent with this order.

Dated: September 30, 2021

/s/ Hala Y. Jarbou
HALA Y. JARBOU
UNITED STATES DISTRICT JUDGE